

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

JAN 1 1975

Dear Governor Bowen:

With great pleasure I am today approving your request to conduct a State permit program pursuant to the provisions of the National Pollutant Discharge Elimination System (NPDES) under Section 402 of the Federal Water Pollution Control Act Amendments of 1972 (the Act). Accordingly, as of this date, I am suspending the issuance of permits by the United States Environmental Protection Agency (U.S. EPA) under Section 402(a) of the Act as to all discharges in the State of Indiana other than those from agencies and instrumentalities of the Federal Government.

The program that you conduct pursuant to this authority must at all times be in accordance with Section 402 of the Act, all guidelines promulgated pursuant to Section 304(h)(2) of the Act, and the Memorandum of Agreement between the Regional Administrator of U.S. EPA's Region V and the Indiana Stream Pollution Control Board (ISPCB) which I have also approved (copy enclosed). Variance from any term or condition, including effluent limitations or schedules of compliance, in any permit issued by Indiana must be with the knowledge and approval of U.S. EPA and consistent with the procedures specified in 40 CFR 124.72 and the Memorandum of Agreement.

I wish to comment on some of the concerns raised by environmental groups and others at the November 26, 1974, public hearing in Indianapolis. The public hearing testimony often indicated the need for the ISPCB to have a more positive, aggressive program of public participation. Section 101(e) of the Act and 40 CFR 105 require an active program of public involvement. The hearing also demonstrated a need for better relations between the ISPCB and concerned environmental organizations in Indiana. The measures described at the public hearing to remedy this situation appear to be in the right direction, but they must be given prompt implementation in order to be effective. This should include the adoption of procedural regulations for public hearings.

I strongly support Indiana's commitment to issue NPDES permits to all dischargers in the State as expeditiously as possible before June 30, 1975. The program of cleansing our Nation's waters depends on the timely compliance of all dischargers. Section 402(k) of the Act makes explicit the necessity for such a commitment. The ISPCB staff has already achieved excellent results in its cooperative effort with Region V to issue all major discharger permits during the Federal administration of the NPDES program in Indiana. Notably, Indiana was the first State in the Midwest to have issued all permits for major industrial dischargers. The Region V staff stands ready to assist the State in the issuance of the remaining permits if necessary.

I believe that the discussions between the U.S. EPA staff and the staff of the ISPCB can help lead to a program which we can support with optimism. Much of this optimism is based upon an increased level of manpower and resources which will come before the Indiana legislature early in 1975. However, only by the appropriation of the necessary funds and additional manpower can Indiana's commitments in its application for NPDES authority be fulfilled. I hope that you will give these appropriations your fullest support.

Upon this transfer of authority, Indiana receives the opportunity to take enforcement action for permit violations. Experience has shown that only a vigorous program of enforcement will be successful in realizing the goals of the NPDES program. The possibility of less than a vigorous State enforcement effort was voiced as a matter of deep concern by several witnesses at the November hearing. At the same hearing, both the Attorney General of Indiana and the staff of the ISPCB went on record in support of a strong State enforcement program. We concur with their expressed sentiments that every permit violation shall have an appropriate enforcement response. Of course, if the State should not take appropriate and timely action for violations of these permits, Federal enforcement proceedings under Section 309 of the Act are available where necessary to obtain compliance.

Given the concern expressed by those who participated in the public hearing, we believe that an open follow-up meeting between those parties and ISPCB staff six months from now would give ISPCB the opportunity to describe in detail its progress. Our regional office will be in touch with the ISPCB to further discuss such a meeting and to participate in the effort required.

We look forward to working with you and the Indiana Stream Pollution Control Board's staff to continue the progress you have made towards cleaner water in Indiana.

Sincerely yours,

/s/ John Quarles, *Deputy*

for Russell E. Train

Honorable Otis R. Bowen
Governor of Indiana
Indianapolis, Indiana 46204

Enclosure

cc: Mr. Oral H. Hert, Technical Secretary
Indiana Stream Pollution Control Board